IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF GEORGIA ALBANY DIVISION

IN RE:	§	
RALPH PETTY, SR. GEORGINE H. PETTY GEORGINE H. PETTY Debtors(s)	\$ &	CASE NO. 06-10616 CHAPTER 13
CAPITAL ONE AUTO FINANCE	§	
Movant	§ §	
VS.	\$ §	
RALPH PETTY, SR.	§	
GEORGINE H. PETTY	§	
GEORGINE H. PETTY	§	
Debtor(s) and	§	
Kristin Hurst, TRUSTEE	§	
Respondent	§	

NOTICE OF MOTION FOR RELIEF

CAPITAL ONE AUTO FINANCE has filed papers with the Court to seek relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss the with your attorney, if you have one in this case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to lift the automatic stay, or if you want the Court	: to conside
your views on the motion, then no or before	(20 days)
you or your attorney must:	

File with the Court a written response explaining your position to:

United States Bankruptcy Court P.O. Box 1957
Macon, GA 31202

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date shown above.

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You must also mail a copy to:

Ronald A. Levine Levine, Block & Strickland, LLP 945 E Paces Ferry Rd #2270 Atlanta, GA 30326

Kristin Hurst Bankruptcy Trustee P.O. box 1907 Columbus, GA 31902 Robert J. Pinnero, PC Attorney for Debtor 510-B W. Broad Avenue P.O. Box 1379 Albany, GA 31702-1379

GEORGINE H. PETTY 313 Hollis Drive Albany, GA 31705 RALPH PETTY, SR. 313 Hollis Drive Albany, GA 31705

Attend the hearing scheduled to be held on August 9, 2006, at 10:00 a.m., on the 2nd Floor, C.B. King United States Courthouse, 201 W. Broad Avenue, Albany, Georgia 31701.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an Order granting that relief.

Dated this 17th day of July, 2005

By: /s/ Ronald A. Levine
Ronald A. Levine
Levine, Block & Strickland, LLP
945 E. Paces Ferry Rd, #2270
Atlanta, GA 30326
(404) 231-4567

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CERTIFICATE OF SERVICE

I hereby certify that on the $17^{\mathcal{H}}$ day	of July , Fool , a true
and correct copy of the above Notice w	as mailed, postage pre-paid, to the following:
	Way
· •	Ronald A. Levine

Kristin Hurst Bankruptcy Trustee P.O. box 1907 Columbus, GA 31902

Robert J. Pinnero, PC Attorney for Debtor 510-B W. Broad Avenue P.O. Box 1379 Albany, GA 31702-1379

RALPH PETTY, SR. 313 Hollis Drive Albany, GA 31705

GEORGINE H. PETTY 313 Hollis Drive Albany, GA 31705 Case 06-10616 Doc 13 Filed 07/17/06 Entered 07/17/06 10:48:41 Desc Main Document Page 4 of 8

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF GEORGIA ALBANY DIVISION

IN RE:

RALPH PETTY, SR.

GEORGINE H. PETTY

SCASE NO. 06-10616

CHAPTER 13

Debtors(s)

CAPITAL ONE AUTO FINANCE

Movant

Vs.

RALPH PETTY, SR.

GEORGINE H. PETTY

Debtor(s) and

KRISTIN HURST, TRUSTEE

Respondent

SCASE NO. 06-10616

CHAPTER 13

CHAPTER 13

CHAPTER 13

SCASE NO. 06-10616

CHAPTER 13

MOTION FOR RELIEF FROM AUTOMATIC STAY OR ALTERNATIVELY, FOR ADEQUATE PROTECTION AND WITH WAIVER OF THIRTY DAY REQUIREMENT AS PROVIDED BY 11 U.S.C § 362(e)

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE OF SAID COURT:

NOW COMES CAPITAL ONE AUTO FINANCE (hereinafter referred to as "Creditor"), a secured creditor of the Debtor(s), and files this its Motion for Relief From Automatic Stay (the "Motion"), and in support thereof would respectfully show the Court the following:

I.

This is a proceeding under Bankruptcy Rules 4001 and 9014 seeking relief under Section 362(d) of the Bankruptcy Code. The District Court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 1334(b) because it arises in or is related to a case under Title 11. Pursuant to 28 U.S.C. Section 157 and the local rules and/or the Order of the United States District Court, this

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proceeding will be referred to the bankruptcy judge for hearing. This proceeding constitutes a core proceeding as defined in 28 U.S.C. Section 157(b)(2)(G).

П.

Creditor is the holder of a secured claim against the Debtor(s) arising from the execution of the following retail installment contract and/or promissory note executed by the Debtor(s) (hereinafter referred to as "Contract").

Date: 07/30/01

Collateral: 1999 Chevrolet Suburban Collateral Identification No. 3GNEC16R5XG147484

No. of Payments: 66
Payment Amount: \$548.21

A true and correct copy of the Contract is attached hereto as Exhibit "A" and is incorporated herein by reference. Creditor has a valid purchase money first lien on the Collateral by virtue of the Contract, which lien has been duly perfected pursuant to state law. Evidence of Creditor's perfected security interest is attached hereto as Exhibit "B" and is incorporated herein by reference.

Ш.

The following is a summary of the status of the Contract as of 07/10/06:

Amount Owing: \$17,341.31

Direct

Contractual Payment Arrears \$17,341.31 Other Fees or Costs: \$540.00

TOTAL AMOUNT OF DELINQUENCY \$17,881.31

Additional Charges:

Attorney's Fee: \$ 225.00 Filing Fee: \$ 150.00

Approximate Value - NADA Average: \$8687.50

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IV.

Creditor would assert, upon information and belief that its interest in the Collateral is not being adequately protected due to the Debtor's failure to make payments and/or failure to maintain collision and comprehensive insurance on the Collateral. Creditor would further assert, upon information and belief that it is not being adequately protected because the Collateral is rapidly depreciating in value based on its use. Furthermore, Creditor would contend that the Collateral is of inconsequential value to the Debtor's estate. Pursuant to Section 362 of the Bankruptcy Code, Creditor is entitled to relief from the automatic stay for cause, including the lack of adequate protection.

V.

Creditor would additionally show the Court that pursuant to the provisions of the Contract, the Debtor(s) agreed to pay reasonable attorney's fees in the event it was necessary for Creditor to hire an attorney to collect the indebtedness owing by the Debtor(s). Debtor(s) are liable for said attorneys' fees under the terms of the Contract.

WHEREFORE, PREMISES CONSIDERED, Creditor requests that the automatic stay be modified to permit Creditor to foreclose upon its lien and liquidate the Collateral as permitted by contract and law, and if applicable, permit Creditor to file an unsecured claim for any remaining deficiency balance. Creditor further requests that in the event the Debtor(s) converts to another bankruptcy chapter during the pendency of this bankruptcy proceeding, any Order entered with respect to this motion shall remain in effect. In the event the Court fails to terminate the automatic stay, Creditor prays that the Court enter an Order adequately protecting the Creditor in the event of a default. Creditor further requests that Rule 4001(a)(3) not be applicable in this case due to the lack of adequate protection. Creditor further prays that it have such other and further relief, at law or in

MOTION FOR RELIEF FROM AUTOMATIC STAY - Page 3

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equity, to which it may show it to be justly entitled.

Movant makes this request pursuant to 11 U.S.C. §362, seeks a hearing pursuant to §362(e) and waive right to hearing within thirty (30) days as provided by 11 U.S.C. Section 362(2).

Respectfully submitted,

Hen

RONALD A. LEVINE, SBN 448736 LEVINE, BLOCK & STRICKLAND, LLP 945 East Paces Ferry Rd., Ste. 2270 Atlanta, GA 30326 (404) 231-4567

ATTORNEYS FOR CAPITAL ONE AUTO FINANCE

MOTION FOR RELIEF FROM AUTOMATIC STAY - Page 4 FILE NUMBER: 112779

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CERTIFICATE OF SERVICE

I, the	undersigned	l, do hereby ce	rtify that a tr	ue and correct	copy of the a	bove and forego	oing
MOTION FO	R RELIEF	FROM AUTO	MATIC STA	Y was forwarde	ed to all parties	s of interest as li	sted
below or atta	ched hereto	via First Class	s, U.S. Mail,	postage prepai	d (unless othe	rwise indicated)	on (
this / ૠ d	ay of Jo	elle	, say				
		7		-			

RONALD A. LEVINE

DEBTOR(S) ATTORNEY: Robert J. Pinnero, PC 510-B W. Broad Avenue P.O. Box 1379 Albany, GA 31702-1379

TRUSTEE: Kristin Hurst P.O. box 1907 Columbus, GA 31902

DEBTOR(S): RALPH PETTY, SR. GEORGINE H. PETTY 313 Hollis Drive Albany, GA 31705